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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/807,226 | 03/23/2004 | William Fredrick Tschirlig JR. | 4418-121 US | 3308 |
| 26817 | 7590 | 02/09/2006 | | |
| MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A. 100 THANET CIRCLE, SUITE 306 PRINCETON, NJ 08540 | | | | |
| | | | EXAMINER GABLER, PHILIP FRANCIS | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3637 | |

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/807,226 | Applicant(s) TSCHIRLIG, WILLIAM FREDRICK | |
| | Examiner Philip Gabler | Art Unit 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because they are informal. Photocopied photographs are of insufficient quality and considered informal. Applicant is required to replace the photographs with drawings so that all details in the photographs can be considered.
2. The drawings are further objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "corner elements... flush with the corresponding sidewall" of claims 3 and 19, and the "partially hollow" seal of claim 15 must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: there are several small, apparently typographical, errors (e.g. "professional designed" on line 11 of page 2, which should be "professionally designed" or "professional-designed;" and "bathroom" on line 1 of page 4, which should be "bathrooms").
4. The title of the invention is not descriptive (there is no claimed method of manufacture of the cabinet as suggested by the title). A new title is required that is clearly indicative of the invention to which the claims are directed.

Appropriate correction is required.

Claim Objections

5. Claim 10 is objected to because of the following informalities: the word "cap" on line 2 of the claim should be "caps." Appropriate correction is required.
6. Claim 21 is objected to because of the following informalities: it is incorrectly numbered as a second claim 20. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 3 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how the corner structural elements are recessed such that they are essentially flush with a corresponding sidewall (this feature is not shown in the drawings or described in the specification sufficiently enough to clearly understand the recess). Accordingly the claims are deemed indefinite.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 4-6, 10 and 12-15 rejected under 35 U.S.C. 102(b) as being anticipated by McIlwraith (US Patent Number Re 34393). McIlwraith (Figures 1-6) discloses a cabinet capable of being mounted in a bathroom comprising: a cabinet body (10) capable of being mounted on a wall having an internal storage area (interior of 10) capable of receiving items and a cabinet body lip (31); the cabinet body comprising a top sidewall (14), a bottom sidewall (15), a hinge sidewall and a non-hinge sidewall

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(both labeled 12), the top sidewall connected to the hinge sidewall by a first corner structural element, the top sidewall connected to the non-hinge sidewall by a second corner structural element; the bottom sidewall connected to the hinge sidewall by a third corner structural element, the bottom sidewall connected to the non-hinge sidewall by a fourth corner structural element (all of the corner structural elements are labeled 26); a cabinet door (13) pivotally mounted to said cabinet body; and a cabinet seal (40) coupled to the cabinet body lip; wherein the cabinet seal substantially covers the outer cabinet body lip.

11. Regarding claim 4, McIlwraith discloses the corner structural elements are connected to the corresponding sidewall by fasteners (50 and 56, via elements 27 and 25).

12. Regarding claim 5, McIlwraith further discloses a screw (56).

13. Regarding claim 6, McIlwraith further discloses the cabinet seal is coupled to the cabinet body lip by snapping over the lip (column 5 lines 62-63).

14. Regarding claim 10, McIlwraith further discloses a plurality of corner caps (25) wherein the corner caps are attached to corresponding corner structural elements such that the corner cap is essentially flush with the cabinet body lip.

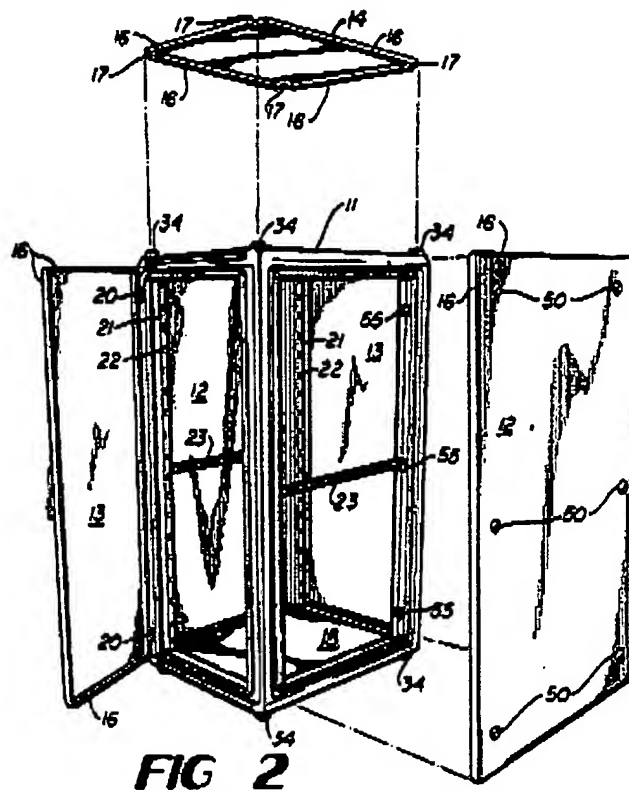
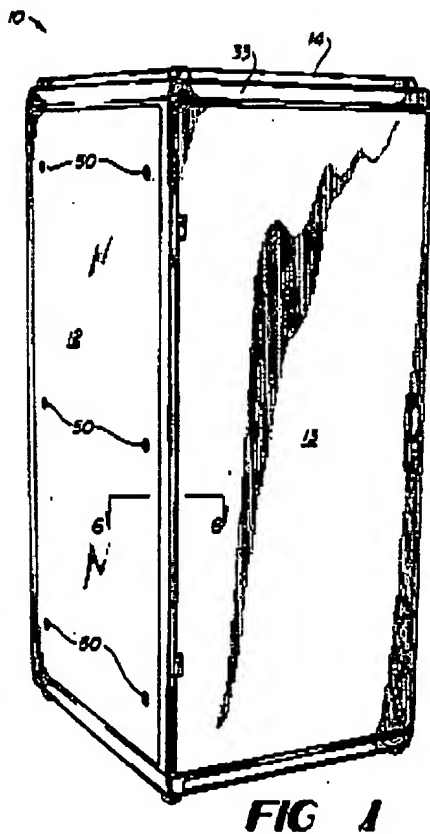
15. Regarding claim 12, McIlwraith further discloses the corner caps are integral to the corner structural elements.

16. Regarding claim 13, McIlwraith further discloses the cabinet seal is a generally pliable material (i.e. rubber, column 5 lines 46-47).

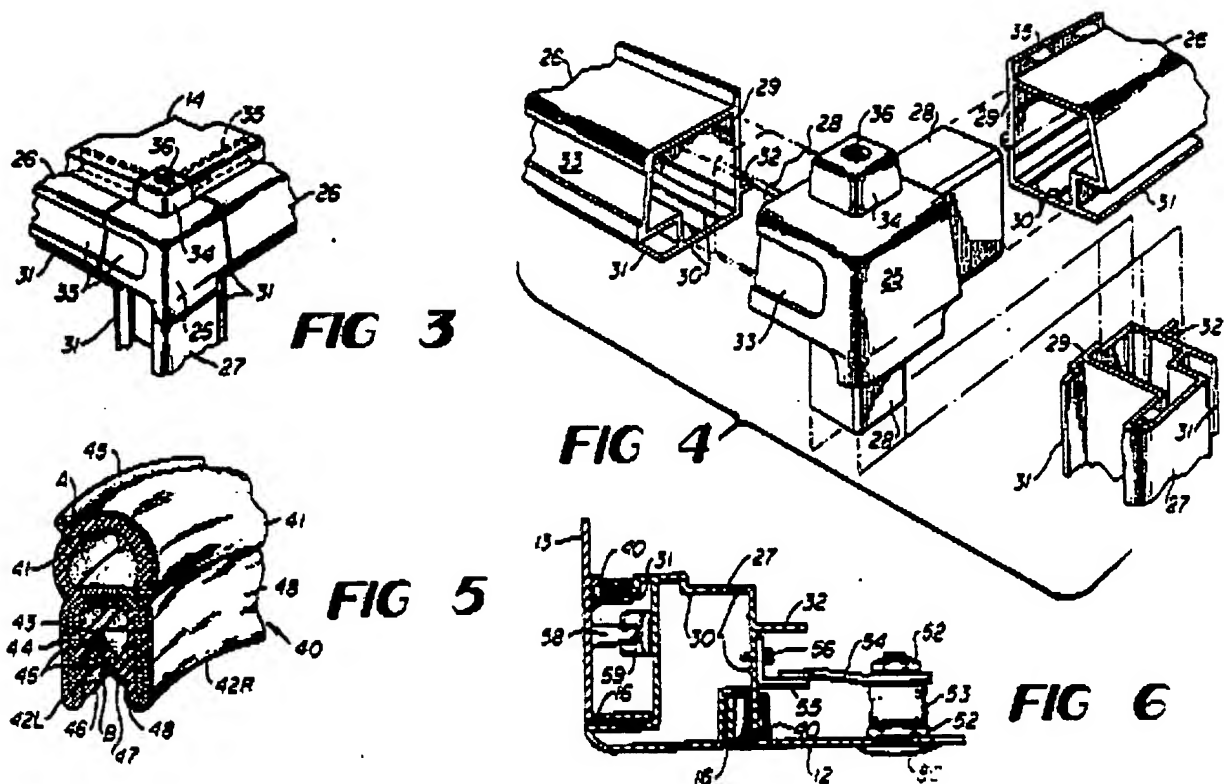
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17. Regarding claim 14, McIlwraith further discloses the material is polymeric (again, rubber, column 5 lines 46-47).

18. Regarding claim 15, McIlwraith further discloses the material is at least partially hollow (see Figure 5).



McIlwraith '393 Figures 1 and 2



Mcllwraith '393 Figures 3-6

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mcllwraith. The selection of a material for construction is considered a design choice and consequently given little patentable weight. Mcllwraith suggests a metal cabinet (in column 2 lines 9-10) and the use of aluminum is well known in the art. Accordingly, it

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would have been obvious to one of ordinary skill in the art at the time the invention was made to use aluminum because of its high strength to weight ratio.

21. Regarding claim 11, McIlwraith discloses a cabinet as recited in claim 10 as well as various fasteners but does not disclose corner caps attached by fasteners.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a fastener to attach the corner caps because of the additional strength this would provide.

22. Claims 1-3, 6-8, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katz (US Patent Number 5355627) in view of Peterson (US Patent Number 4045104).

23. Regarding claims 1, 8, 16, and 17, Katz (Figures 1 and 3) discloses a cabinet capable of being mounted in a bathroom comprising: a cabinet body (14) capable of being mounted on a wall having an internal storage area (16) capable of receiving items and a cabinet body lip (formed by 24a, 26a, and the corresponding top and bottom flanges not shown but mentioned in column 4 lines 30-34); the cabinet body comprising a top sidewall (30), a bottom sidewall (28), a hinge sidewall (24) and a non-hinge sidewall (26) each having a channel (24b, 26b, and channels in the top and bottom sidewalls not shown but mentioned in column 4 lines 28-30); a cabinet door (12) pivotally mounted to said cabinet body; a cabinet seal (36) coupled to the cabinet body lip; wherein the cabinet seal substantially covers the outer cabinet body lip; and a back support (32) held by the sidewall channels. [Note that the back support of claim 8 is viewed as being a positively recited claim limitation despite being introduced in

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functional language (i.e. "to hold...").] Katz does not disclose corner structural elements.

Peterson (Figure 1) discloses a corner structural element (22) for a cabinet.

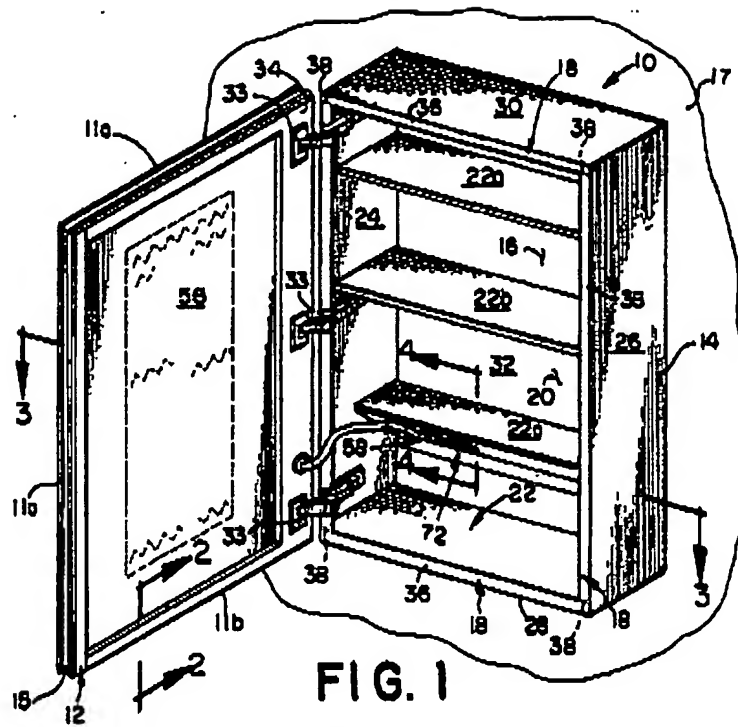
Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Katz's cabinet to include corner structural elements as taught by Peterson because this arrangement would ease assembly while maintaining a solid construction.

24. Regarding claims 2 and 18, Katz further discloses the use of aluminum for construction of the cabinet (column 3 line 65 to column 4 line 1).

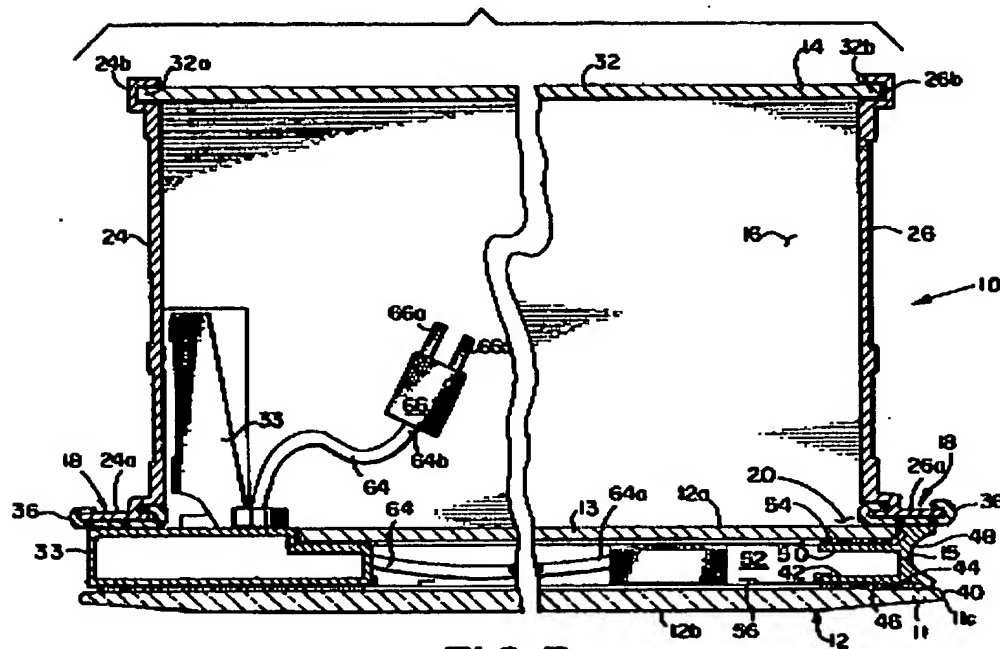
25. Regarding claims 3 and 19, as best understood, Peterson further discloses the corner structural elements (22) are recessed (recess above flange 60) such that they are essentially flush with a corresponding sidewall (6). [Note that the cabinet is only shown in an exploded view, but it is clear from Figure 1 that the sidewall would be essentially flush with the corner element once assembled.]

26. Regarding claims 6 and 20, Katz further discloses the cabinet seal is coupled to the cabinet body lip by snapping over the lip (column 5 lines 31-33).

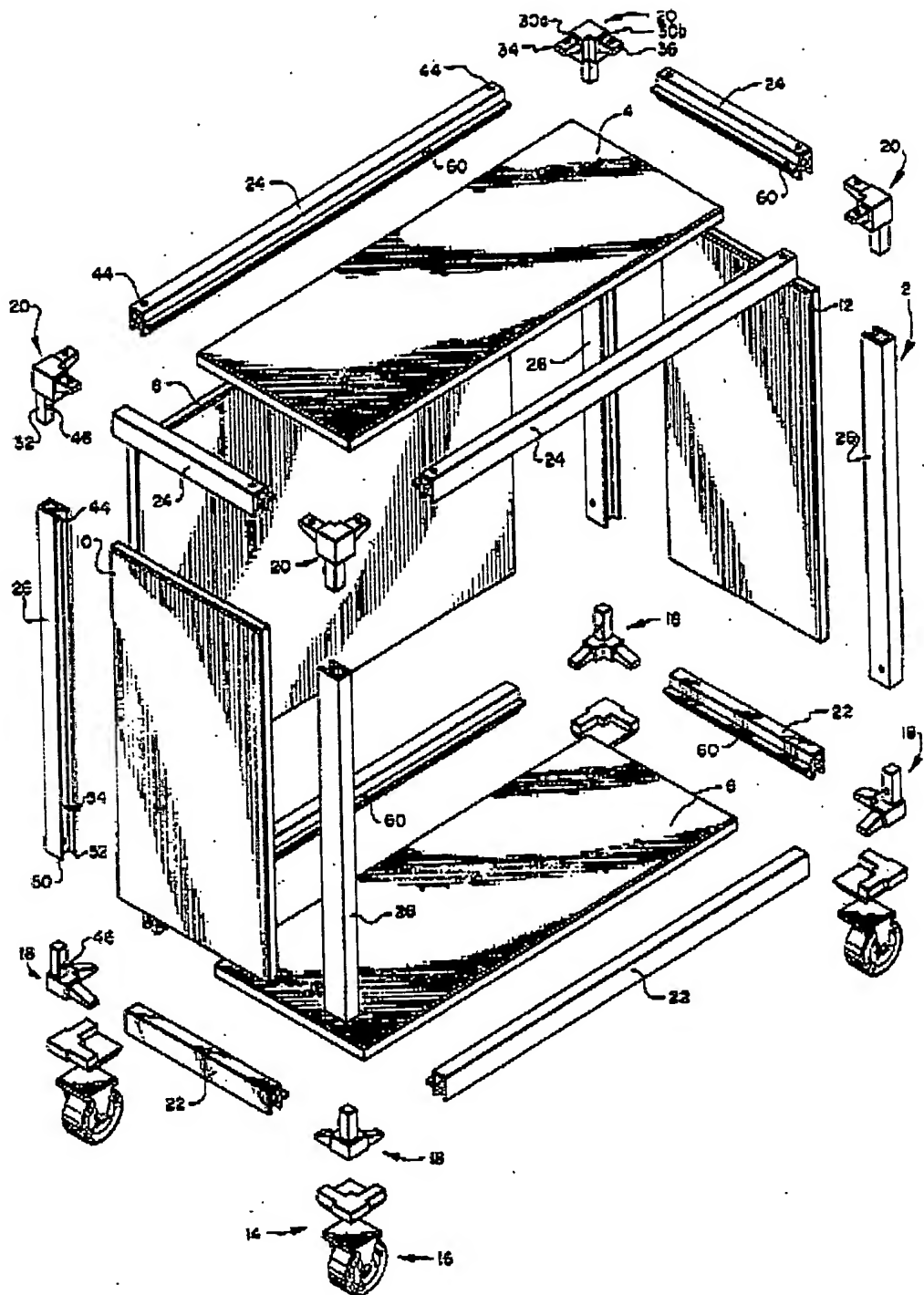
27. Regarding claims 7 and 21, Katz further discloses the cabinet seal could be coupled to the cabinet body by adhesive (column 5 lines 34-37).



Katz '627 Figure 1

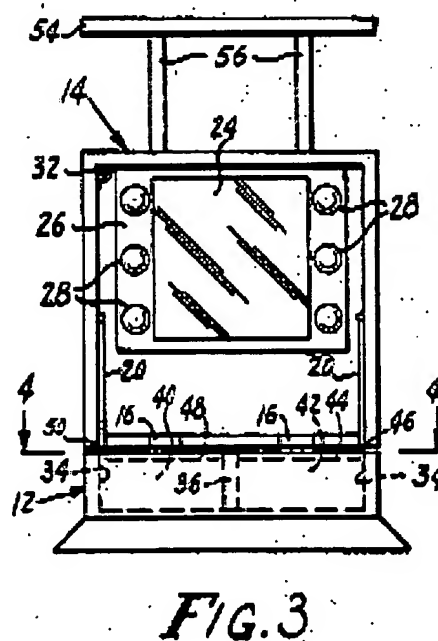
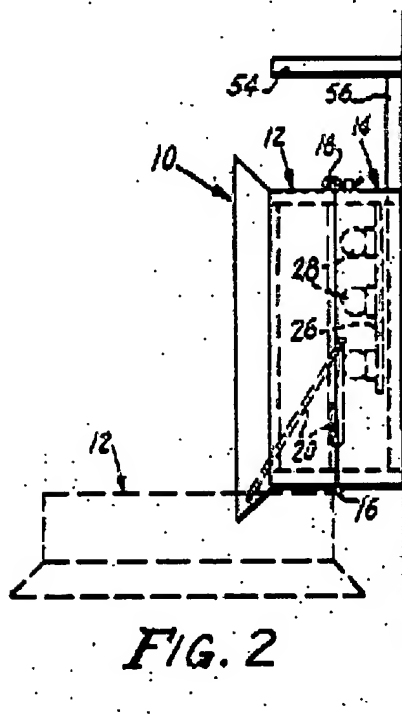


Katz '627 Figure 3



Peterson '104 Figure 1

28. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katz in view of Peterson and further in view of Gilinger (US Patent Number 3684344). Katz, when modified by Peterson as described above, discloses a cabinet as recited in claim 8 but does not disclose an interior mirror mounted to a back support. Gilinger (Figures 2 and 3) discloses a cabinet with an interior mirror (24) mounted to a back support (area 26 of section 14). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Katz's cabinet, previously modified by Peterson, to include an interior mirror as taught by Gilinger because this arrangement would provide an additional convenience to the cabinet.



Gilinger '344 Figures 2 and 3


Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Goppion (US Patent Number 6042202) and Wilke (US Patent Number 4592604) references are cited for disclosing cabinets with characteristics similar to those of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFG 
1/31/2006

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